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Note: The frequent references in the within brief to the above numbered sections refer to those sections of the Revenue Act of 1926.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931

No. 582

WOOLFORD REALTY COMPANY, INC., *Petitioner,*

v.

J. T. ROSE, *Collector of Internal Revenue For The District of Georgia.*

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE

May it please the Court:

The undersigned respectfully move this Honorable Court for leave to file the accompanying brief in this case as *amici curiae.*

FREDERICK L. PEARCE
GEORGE M. MORRIS
Amici Curiae,

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BRIEF OF FREDERICK L. PEARCE AND GEORGE M. MORRIS AS AMICI CURIAE

I. THE PURPOSE OF THIS BRIEF.

The respondent in his brief herein would infer that, in cases where a consolidated return is made (under Section 240), there is something inequitable in the application of net losses under the statute by the method contended for by the appellant taxpayer. The present brief is confined to a demonstration by illustrative computations taken from actual cases that more inequities result from the respondent's method of applying net losses, and that the taxpayer's method will produce an equitable result in the great number of consolidated returns.

II. THE METHODS PROPOSED FOR APPLYING NET LOSSES IN CONSOLIDATED CASES.

In view of the able discussion of the statute in other briefs amici curiae filed in this proceeding, a technical presentation of the two theories is not contemplated herein. A summary description of the two opposing views is, however, a necessary precedent to an understanding of the contrasting application of net losses to the varying circumstances of consolidated returns. For the sake of simplicity the examples are in general confined to a consideration of two corporations merely for two successive years; the injection of a third year would not change the effects of the two proposals. The methods contended for by the opposing parties hereto, are summarized as follows:

1. *The Respondent's Method.*

The respondent contends for a rule that:

The net losses of Companies A and B for 1926 are to be carried forward (under Section 206) and the separate net loss of each company is to be applied against the net income (if any) of each respective company for the year 1927. If after such application of net losses Company A has net income remaining in 1927 and Company B has net loss unabsorbed, that loss of B may *not* be combined with the remaining income of A in determining (under Section 240) the taxable net income on a consolidated basis for the year 1927.

2. *The Taxpayer's Method.*

The taxpayer contends for a rule that:

The net losses of Companies A and B for 1926 are to be carried forward (under Section 206) and the separate

net loss of each company is to be applied (under Section 232) as a deduction in computing the net income (and ordinary loss) of each respective company for 1927. If such computation (under Section 232) for 1927 results in net income for Company A and ordinary loss (excess of deductions over gross income) for Company B, that loss of B for 1927 is to be combined with the net income of A in determining (under Section 240) the taxable net income on a consolidated basis for the year 1927.

3. *The Contrast of the Two Proposals.*

Both parties appear to agree upon the separate carrying forward of net losses under Section 206, but they disagree upon the application thereof to be made under Section 232. If ordinary loss (negative income) results to Company B under Section 232 from deductions authorized by Section 234 (for interest, taxes, expenses, etc.), the respondent will combine such loss of B with the net income of A in determining consolidated net income (under Section 240). If ordinary loss (negative income) results to Company B (under Section 232) from the deduction authorized by Section 206 (for net loss), the respondent refuses to combine such loss of B with the net income of A in determining consolidated net income (under Section 240).

The respondent thus makes two different applications of Section 232 in his computations under Section 240. The respondent, in his brief, bases his refusal to make the same application of Section 240 to both types of negative income resulting under Section 232, upon the argument (we submit mistaken) that there is something inequitable in combining an ordinary loss of one company (resulting from a net loss) with the net income of the other company in the group in determining consolidated net income.

The following presentation of actual cases arising under Section 240 we believe clearly demonstrates that more inequities result from the respondent's proposed method of applying net losses, and that the taxpayer's method more closely following the statute, will produce an equitable result in the great number of consolidated returns.

III. IN CERTAIN CONSOLIDATED CASES THE SAME RESULT IS REACHED UNDER BOTH PROPOSED METHODS.

In a large number of cases arising under Section 240 the same resulting consolidated net income is arrived at under both proposed methods of applying net loss. Obviously these examples do not bring out the contrast of the two methods but they do serve to show what the respondent believes is a proper result under the statute.

Example 1.

The Facts.—In 1926 Company A owned no stock of Company B; the two companies sustained net losses of $10,000 and $11,000 respectively. On January 1, 1927, Company A buys all the stock of B, and they earn net incomes of $10,000 and $11,000 respectively in that year.

The taxable net income on the consolidated return for 1927 is computed under both proposed methods as follows:

Co. A—Net Loss 1926	$(10,000)	
Net Income 1927	10,000	
Net Income remaining 1927		None

Co. B—Net Loss 1926	$(11,000)
Net Income 1927	11,000
Net Income remaining 1927	None
Consolidated Net Income 1927	None

In regard to the application of the respondent's method see General Counsel's Memorandum 8618 (IX-2 Cumulative Bulletin p. 180) at page 182 (point 4 of Law Opinion 1113) where the corporations were not affiliated in the year of net loss but were affiliated in the year of the application, the net loss of each is allowed to be carried over to the extent that the same company had income. At the top of page 184, point 4 is approved in principle.

Thus the very result which the respondent objects to on equitable grounds in the Woolford Case, occurs in the group of cases covered by this example. The net loss of Company B for 1926 which really fell upon its former stockholders in that year is allowed in 1927 to the benefit of the parent Company A and its stockholders. The respondent reaches this result, despite his equitable theory, evidently because the statute requires such application of the prior net losses.

Example 2.

The Facts.—Company A owned all the stock of Company B and filed a consolidated return in 1926; A earned $10,000 and B sustained a net loss of $21,000 in that year. On January 1, 1927, the parent A sells all the stock of B to strangers, and the

two companies earn net incomes of $11,000 and $12,000 respectively for 1927.

The application of the net loss is made under both proposals as follows:

1926—Co. A Net Income	$10,000	
Co. B Net Loss	(21,000)	
Consolidated Net Loss (Sec. 240) applicable to Co. B (Sec. 206)		$(11,000)
1927—Co. A Net Income	$11,000	
Net Loss from 1926	none	
Taxable Net Income Co. A 1927		$11,000
1927—Co. B Net Income	$12,000	
Net Loss from 1926	(11,000)	
Taxable Net Income Co. B. 1927		$1,000

For respondent's method see G. C. M. 8618 (IX-2 Cumulative Bulletin p. 180) at page 182 (point 3 (b) of Law Opinion 1113) where the corporations were affiliated in the year of the net loss but were not affiliated in the year of the application, the net loss on the consolidated return is apportioned to the member which separately had a net loss and applied against its net income in the other year. Point 3 is approved at the top of page 184.

Here again the result reached in this group of cases is inconsistent with the respondent's supposed equitable theory. The parent Company A, whose money was lost in 1926 through the operations of its subsidiary B in that year, receives no benefit of the net loss for 1926 in its return for 1927. The new stockholders of Company B

in 1927, however, receive the benefit in 1927 of the 1926 loss in which they had no direct or indirect interest. We must conclude, therefore, that even in the opinion of the respondent the equities, if there be any such considerations, must give precedence to the specific provisions of the statute regarding net losses.

In reality, it should be clear from these examples that the supposed equitable argument of the respondent is not inherent in his method of applying net losses but is a mere happenstance in certain cases and has no reference to the general application of his proposed method.

Example 3.

The Facts.—Company A owned all the stock of Company B and filed consolidated returns for both years 1926 and 1927. The two companies sustained net losses of $10,000 and $11,000 respectively in 1926 and earned net incomes of $10,000 and $11,000 respectively in 1927.

The taxable net income on the consolidated return for 1927 is computed under both proposed methods as follows:

Co. A—Net Loss 1926	$(10,000)	
Net Income 1927	10,000	
Net income remaining 1927		None
Co. B—Net Loss 1926	$(11,000)	
Net Income 1927	11,000	
Net income remaining 1927		None
Consolidated Net Income 1927		None

For respondent's method see G. C. M. 8618 (IX-2 C. B. 180, at p. 188) "In summarizing, the net loss allocable

to members of the group for * * * (1926) may be brought forward and deducted from the net income allocated to the member for * * *" (1927).

The result here under either method obviously, from the unchanged interest, accords with the equities of the situation, and this example is included for sake of completeness since it represents a large group of cases. We must point out, however, that the result does not arise from the equity of the affiliation and continuing interest for the same result is reached under the respondent's method in Example 1 (supra) where the companies were not affiliated in 1926 and the interest was radically changed in 1927.

We might multiply the examples wherein both parties to the present cause are in agreement as to the application of net losses in consolidated cases. We believe it is clear, however, from the foregoing examples which cover large groups of consolidated returns, that the equity of the result reached is not inherent in the method employed but arises merely as a necessary resultant of applying the provisions of the statute.

IV. EXAMPLES OF HARDSHIP PRODUCED BY THE RESPONDENT'S METHOD.

There are numerous cases arising under Section 240 in which quite opposite results are reached under the two methods proposed, by the parties to the present proceeding, for applying net losses in consolidated returns. In large groups of such cases the respondent's proposal clearly results in hardship, while the taxpayer's proposed method, more closely following the statute, reaches an equitable result in the great number of consolidated returns.

A few examples of large groups of such cases are set

out below, and the result reached under the respondent's method of applying net losses is contrasted with the effect of the method proposed under the statute by the appellant taxpayer.

Example 4.

The Facts.—Company A owned all the stock of Company B, and filed consolidated returns for both years 1926 and 1927. The two companies sustained net losses of $10,000 and $11,000 respectively in 1926. Company A earned net income of $33,000 in 1927 while Company B sustained a loss (for that year alone) of $12,000.

The taxable net income on the consolidated return for 1927 is computed under the respondent's proposed method as follows:

Co. A Net Income 1927	$33,000	
Net Loss 1926	(10,000)	
Net Income remaining 1927		$23,000
Co. B Loss 1927 alone	$(12,000)	
Net Loss 1926 ($11,000)	not applied*	
Ordinary loss for 1927 (alone)		12,000
Consolidated Net Income 1927 return		$11,000

* In G. C. M. 8618 (IX-2 C. B. p. 180) at page 188, last paragraph, it is ruled that "such (1926) net loss may not be used as a deduction in * * * (1927) beyond the point where there is income of the member to absorb it."

The respondent, by not permitting the net loss of Co. B for 1926 to be deducted with the loss for 1927 alone in

computing the ordinary loss of that company (under Section 232) for 1927, deprives the continuing group of the benefit of the losses sustained by it in the prior year. The losses through the operations of the subsidiary B must eventually fall upon its parent A through the stock relationship and in all equity should be absorbed against the profits of the parent.

The following result under the taxpayer's proposed method is more equitable:

Co. A Net Income 1927	$33,000	
Net Loss 1926	(10,000)	
Net Income remaining 1927		$23,000
Co. B. Loss 1927 alone	$(12,000)	
Net Loss 1926	(11,000)	
Ordinary Loss for 1927 (Sec. 232)		(23,000)
Consolidated Net Income 1927 *Return*		None

This example obviously covers a large group of consolidated returns. It is frequently necessary for a parent corporation to operate a subsidiary company at a loss year after year because that subsidiary performs a function necessary to the group, and its operation even at a loss contributes to the larger profits of the group as a whole.

Take the case of a parent mining corporation owning a short line railroad essential as an outlet for the mine. Without the railroad the mine cannot operate, yet the rates of the railroad may be so fixed in the public interest (by regulating authority) that the railroad must operate each year at a loss. The parent would not continue to operate the railroad if that operation did not contribute to the profitable conduct of the mining venture.

For many reasons, under the requirements of state laws or due to the internal arrangements of the business as a whole, many a parent company must as a matter of good business continue to conduct a subsidiary at a loss. The subsidiary may be required to hold title to real estate in a foreign state, or to perform a service function such as a railway, electric, gas, or water company, warehousing or distributing agency, which is essential to the business as a whole. An endless number of such elements of business operations are better performed by a subsidiary than by the parent itself.

Yet if the subsidiary Company B happens to sustain net losses in both 1926 and 1927, while the parent has a net loss in 1926 and sufficient income in 1927 to absorb the losses, the respondent's proposed method denies deduction of the net loss of the subsidiary B for the year 1926. Clearly it is the parent's money which is lost through the subsidiary operations and in all equity the loss of B for 1926 is just as much a part of the consolidated return as is A's loss for 1926, or B's loss for 1927.

In this large group of cases arising under Section 240, the method proposed by the taxpayer, specifically following the statute in the application of net losses, produces also the equitable result; the respondent's method, ignoring the provisions of section 232, results in hardship and inequity in a great number of consolidated returns.

Example 5.

The Facts.—Company A owned 94% of the stock of Company B in 1926; the two companies sustained net losses of $10,000 and $11,000 respectively in that year. On January 1, 1927, Company A

buys an additional 1% of the stock of Company B and in that year Company A earns net income of $33,000 while Company B sustains a loss (for that year alone) of $12,000.

The taxable net income upon the consolidated return for 1927 is computed under the respondent's method of applying net losses, as follows:

Co. A	Net Income 1927	$33,000	
	Net Loss 1926	(10,000)	
	Net Income remaining 1927		$23,000
Co. B	Loss 1927 alone	$(12,000)	
	Net Loss 1926 ($11,000) not applied*		
	Ordinary Loss 1927 (alone)		(12,000)
	Consolidated Net Income 1927 *return*		$11,000

* In G. C. M. 8618 (IX-2 C. B. p. 180) at page 182 (point 4 of Law Opinion 1113) where the corporations were not affiliated in the year of the loss but were in the year of application, if the net loss of a member exceeds its proportion of the consolidated net income in the other year the excess shall not be allowed to further reduce the consolidated net income. Point 4 is approved at top of page 184.

Here again the respondent denies the deduction for the loss of the subsidiary B for the year 1926 although that loss for practical purposes falls upon the parent Company A and in all equity should be absorbed against its profits.

The following result under the taxpayer's method of

applying net losses is more in accordance with the practical consequences and equities of the situation:

Co. A Net Income 1927	$33,000	
Net Loss 1926	(10,000)	
Net Income remaining 1927		$23,000
Co. B Loss 1927 alone	$(12,000)	
Net Loss 1926	(11,000)	
Ordinary Loss 1927 (Sec. 232)		(23,000)
Consolidated Net Income 1927 *return*		None

Practical commercial accounting requires the consolidation of a subsidiary's loss with the parent when only a majority control is owned. In many cases a large commercial control is owned for years before the gradual acquisitions of the subsidiary's stock reach an ownership of 95% by the parent. Meanwhile the parent finances the subsidiary and for practical purposes bears its losses.

It is only when 95% ownership of the subsidiary stock is attained that its losses may be brought into the consolidated return with the parent. Yet even then the respondent would refuse to bring forward the loss of the subsidiary for the preceding year (although this is provided for in Sections 206 and 232) and although that loss has already fallen upon the parent for all practical purposes through the parent's ownership of controlling stock in the subsidiary.

Consolidations in which the parent company owns slightly under 95% in one year and attains over 95% ownership of the subsidiary's stock in the next year are quite numerous. The mining company mentioned in

Example 4 (supra) may own all but a 6% minority in the railroad (or other such subsidiary) in 1926, and acquire some of the minority stock in 1927. The service rendering subsidiary is no more an essential part of the business group as a whole in 1927 than it was in 1926. The railroad contributes no more effectively to the operations and success of the parent mine when 95% of the stock is attained than when only 94% was owned. The practical commercial considerations requiring the continued operations of the subsidiary even at a loss are in either case just as compelling and the loss of the subsidiary is for all practical purposes the loss of the parent.

Frequently the parent company will own 100% of the common stock of a subsidiary, with a small issue of voting preferred stock in the hands of the public. Because such holders will not sell at a fair price, or because the retirement date has not been reached, the parent cannot acquire such preferred stock. Yet consolidation is denied so long as over 5% of the total voting stock is outstanding. If in 1927 the preferred stock be retired, consolidation is permitted. Yet the respondent would refuse the carrying forward of the subsidiary's loss for 1926 even though it had already fallen upon the parent because of its continuing ownership of all the common stock. Such loss would seem clearly and equitably to be a proper factor in the determination of actual net income upon a consolidated basis.

Another large class of cases in this group includes subsidiaries in which a minority of stock is sold at par to employes (such as the manager of the department operated by the subsidiary). Such stock is sold to stimulate loyalty in the employes with the hope of profit sharing. After several years of unsuccessful operations the parent is compelled to repurchase the employes' stock, and, to

retain their loyalty, repurchases such stock at the price the employes paid for it. Such repurchase is good business but it effectively throws the accumulated loss of the subsidiary upon the parent. (The foregoing are the basic facts in Summerfield Co. v. Commissioner, 24 B. T. A. 829).

Here again the respondent's proposal precludes the consolidation of the prior losses; the taxpayer's method permits the inclusion of the subsidiaries' losses (for the years covered by Sections 206 and 232). We submit the latter method is more in accord with the practical consequences and equities of the situation.

Example 6.

The Facts.—Mr. S owned all the stock of Companies A and B in 1926; they sustained net losses of $10,000 and $11,000 respectively in that year and did not elect to file a consolidated return. On January 1, 1927, Mr. S conveys all the stock of B to Company A; in that year Company A earns net income of $33,000 while Company B sustains a loss (for that year alone) of $12,000, and they elect to file a consolidated return for that year.

These facts are said in the decision below in this proceeding to represent the decision in National Slag Company v. Commissioner (47 Fed. (2d) 846), which, the court below indicates, reaches an equitable result.

The taxable net income upon the consolidated return for 1927 is computed under respondent's method of applying net losses (which is approved by the court below herein) as follows:

Co. A Net Income 1927	$33,000	
Net Loss 1926	(10,000)	
Net Income remaining 1927		$23,000
Co. B Loss 1927 alone	$(12,000)	
Net Loss 1926 ($11,000) not applied		
Ordinary Loss 1927 (alone)		(12,000)
Consolidated Net Income 1927 *return*		$11,000

Here the method of the respondent, approved by the decision below in this cause, would deny deduction for the loss of the subsidiary for 1926 although the court indicates that it considers the result reached (under the taxpayer's method) equitable in that case.

The following result under the taxpayer's method of applying net losses accords with the equities of the continuing interest of Mr. S in the two corporations:

Co. A Net Income 1927	$33,000	
Net Loss 1926	(10,000)	
Net Income remaining 1927		$23,000
Co. B Loss 1927 alone	$(12,000)	
Net Loss 1926	(11,000)	
Ordinary Loss 1927 (Sec. 232)		(23,000)
Consolidated Net Income 1927 *return*		None

This example covers the group of cases in which the continuing interest is the same and in which the companies do not elect to file a consolidated return in one year, but because of a new election or by securing permis-

sion they change to a consolidated return in the next year. Such election to change the basis of reporting (even where no change in stock interest occurred) was given by statute and general regulations in 1922, 1924, 1925, and 1926, (See Article 632, Treasury Regulations 62, 65, and 69 and T. D. 4026, VI-1 C. B. p. 99) and consolidated companies may change in any year from 1922 to 1928 inclusive upon securing permission of the Commissioner of Internal Revenue.

Thus in numerous cases in which the continuing interest is identical in both years the respondent's method of applying net losses does not reach the equitable result. He computes a taxable income of $11,000 on the consolidated return (above) when there were no net earnings of the group. The taxpayer's method on the contrary, accords with the actual and practical results of the operations of the group for the two years, as well as complying specifically with the statute.

Example 7.

The Facts.—Company A owned all the stock of Company B in 1926 and 1927; in the former year Company A earned $1,000 and Company B sustained a net loss of $34,000. In 1927 the parent transfers part of its business to the subsidiary and in that year Company A earns $31,000 and Company B $2,000.

The taxable net income upon the consolidated return for 1927 is computed under the respondent's method (of following the loss through only to each separate company) as follows:

1926—Co. B Net Loss	($34,000)	
Co. A Net Income	1,000	
Consolidated Net Loss 1926 Applicable to Co. B (Sec. 206)		($33,000)
1927—Co. B Net Income	$2,000	
Net Loss from 1926	(33,000)	
Applicable against A	(None)	
Co. A Net Income	$31,000	
Taxable Net Income upon consolidated basis for 1927		$31,000

See G. C. M. 8618 (IX-2 C. B. p. 180) at page 188, last paragraph, the 1926 "net loss may not be used as a deduction in * * * (1927) beyond the point where there is income to the member to absorb it."

Here is a continuing consolidation in which there is no profit for the two years 1926 and 1927 in the aggregate, and yet the respondent would determine a net income of $31,000.

The following result under the taxpayer's proposed method of applying net losses, on the other hand, accords with the actual result of the two years' operations:

1926—Co. B Net Loss	($34,000)	
Co. A Net Income	1,000	
Consolidated Net Loss 1926 Applicable to Co. B (Sec. 206)		($33,000)

1927—Co. B Net Income	$2,000
Net Loss from 1926	(33,000)
Ordinary loss 1927 (Sec. 232)	($31,000)
Applicable against Co. A (Sec. 240)	
Co. A Net Income	31,000
Taxable Net Income upon a consolidated basis for 1927 return	None

In this group will fall the case where the parent in 1927 creates out of whole cloth a new Subsidiary Company C, to which it conveys a part of the parent's business which may earn $21,000 in 1927 and leave the parent with income of $10,000. The true commercial group is not changed; the true total income of the group is not altered, and yet under the respondent's method the application of the 1926 net loss is even more remote. Where he will not apply the loss against the income of the continuing Company A, he certainly will deny it to the new Company C.

In G. C. M. 8618 (IX-2 C. B. p. 180) at the bottom of page 180, it is found that "The assets of the newly incorporated companies were acquired from other companies in the group for which the new companies issued their stock." Despite this fact that the new companies in the group are carrying on part of the business previously done by other members of the roup, the conclusion (in the last paragraph on page 188) is that the prior net losses of the other members may not be applied against the income of the new companies.

Under the taxpayer's method, however, the equitable result is reached under the statute again in this case, as follows:

1926—Co. B Net Loss	($34,000)	
Co. A Net Income	1,000	
Consolidated Net Loss 1926 Applicable to Co. B (Sec. 206)		$(33,000)
1927—Co. B Net Income	$2,000	
Net Loss from 1926	(33,000)	
Ordinary loss 1927 (Sec. 232)	$(31,000)	
Applicable against other Cos. (Sec. 240)		
Co. A Net Income	10,000	
Co. C Net Income	21,000	
Taxable net income upon a consolidated basis for 1927 return		None

In extending his equitable theory the respondent may argue that the loss of a subsidiary may be corrected by transferring more business to it. Yet to obtain the benefit of the net loss provisions (under the respondent's method) the group must nicely balance the profits and losses of the individual companies. Unless the subsidiary earns enough profit in 1927 to absorb its loss for 1926 the respondent would deny a computation which shows the true result of the group. The consolidated group at its peril must rearrange its affairs (irrespective of commercial considerations) so as to equalize the profits and losses of the separate companies if the group is to have the benefit of the actual net losses under the respondent's method.

Business groups are operated for practical purposes and should not be required to juggle their internal affairs to obtain a fair tax benefit. The very purpose of the con-

solidated returns provisions (Section 240) is to prevent, and obviate the necessity for, juggling the accounts of companies in a consolidated group in computing taxable income. The statute intends to impose taxes upon the commercial results of the group as a whole without regard to the details of individual companies.

With this general purpose (in Sec. 240) a contrary intent can hardly exist for the application of Section 206. Yet the respondent's method stops with the application of the 1926 net loss to the individual company in 1927 (under Section 206). The taxpayer's method goes on from that point and (under Section 232) computes an ordinary loss for 1927 which may (under Section 240) be applied against the income of the other companies in the consolidated return. The respondent stops one step short of a true consolidated computation. The taxpayer, more specifically following the statute (Sec. 206, 232 and 240) in his proposal supplies the step necessary to the practical and equitable (as well as statutory) result in the great number of consolidated returns.

V. SUMMARY

We have seen (Examples 1 and 2) that the respondent in the cases of other consolidated groups will follow the statute (Sec. 206), even though it may appear to produce an inequitable result in certain instances. In the Woolford Realty Company matter, however, he proposes a method for applying net losses which ignores the statute (Section 232) merely in order that he may reach an allegedly equitable result.

It is developed herein (Examples 4 to 7) that the respondent's proposal on the contrary works inequity in many large groups of cases. The taxpayer's proposed

computation in the Woolford case, on the other hand, reaches an equitable (and we submit, statutory) result in the application of net losses in the large number of consolidated returns.

We believe it is demonstrated that the respondent's supposed equitable argument is specious, and not supported by the result of the computations in a great number of cases. As a consequence, the respondent's proposed method should be rejected and the taxpayer's method (more specifically following the statute, Sections 206, 232 and 240) should be adapted, irrespective of the apparent equities of any one particular case.

Respectfully submitted,

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